

**REMARKS**

At the outset, Applicant would like to make the Examiner aware that the present application is related to the Application Serial Nos. 09/577,224; 09/577,231; 09/577,332; and 09/578,156.

Claims 1-6, 9-13, 19 and 21-27 are pending in the application. Claims 1-6, 9-13, 19 and 21-27 are rejected. Claims 1 and 19 have been amended in this response. No new matter is presented and no new issues are raised. The following comments address all stated grounds for rejection and place the presently pending claims, as identified above, in condition for allowance.

Applicant would like to thank the Examiner for agreeing to an Examiner Interview. The comments and suggestion provided by the Examiner were most helpful.

**Claim Rejections under 35 U.S.C. § 101**

Claims 1-6, 9-13, 19 and 21-27 stand rejected under 35 U.S.C. § 101 for reciting non-statutory subject matter. Applicant respectfully traverses this rejection on the basis of the following arguments and further contend that each pending claim recite statutory subject matter directed to new and useful processes for managing a network in accordance with 35 U.S.C. § 101. For the ease of the discussion below, each respective claim set is discussed separately.

**IA. Rejection of Claims 1-13 under 35 U.S.C. § 101:**

The Office Action rejects Claims 1-13 as being directed to non-statutory subject matter. Applicant's respectfully traverse this rejection on the basis of the following amendments and arguments, and further contend that these claims, as described below, are directed to statutory subject matter.

Claims 2-6 and 9-13 depend, directly or indirectly, on Claim 1, and thereby incorporate the patentable features of Claim 1.

Claim 1 has been amended to clarify and better cover the subject matter of the present invention. The amendment is supported by the specification and no new matter has been added.

Claim 1 is now clearly delineated as a computer implemented method. As such the claimed method is a practical application in the technological arts and is not “merely and abstract idea.”

Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of amended Claims 1-6 and 9-13 under 35 U.S.C. § 101.

**IB. Rejection of Claims 19-27 under 35 U.S.C. § 101:**

The Office Action rejects Claims 19-27 under 35 U.S.C. § 101 as reciting an abstract idea that does not produce a useful, tangible, concrete result. Applicant respectfully traverses this rejection on the basis of the following arguments, and further contends that the subject matter recited in these claims, as described below, recites a “useful” process that produces a tangible and concrete result.

Claims 21-27 depend, directly or indirectly upon amended Claim 19 and thereby incorporate the patentable features of amended Claim 19.

Claim 19 has been amended to clarify and better cover the subject matter of the present invention. The amendment is supported by the specification and no new matter has been added.

Amended Claims 19 is now clearly delineated as a computer implemented method that provides service level management. As such the claimed method is a practical application in the technological arts and is not “merely and abstract idea.”

Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of Claims 19-27 under 35 U.S.C. §101.

**Claim Rejections under 35 U.S.C. § 112**

Claim 1-13, 14, and 19-27 stand rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Applicant respectfully traverses each of these rejections on the basis of the following arguments and above amendments. For the ease of the discussion below, each respective claim set is discussed separately.

**IIA. Rejection of Claims 1-13 under 35 U.S.C. § 112:**

The Office Action rejects Claims 1-13 as being indefinite. In particular the Examiner was unclear of relationship of the service level management domain in the preamble with the rest of the claim. The Applicant respectfully traverses this rejection on the basis of the above amendments and the following arguments.

Claims 2-6 and 9-13 depend, directly or indirectly on amended Claim 1, and thereby incorporate the patentable features of amended Claim 1.

Claim 1 has been amended to clarify and better cover the subject matter of the present invention. The amendment is supported by the specification and no new matter has been added.

The language of amended Claim 1, referencing the service level management domain qualifies the entity for which a business service is being monitored. That is, the entity is associated with a service level management domain as set forth in the specification (see page 19). As such Applicant believes there should be no confusion as to what is being claimed in Claim 1. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of Claims 1-6 and 9-13 under 35 U.S.C. § 112

IIB. Rejection of Claims 19-27 under 35 U.S.C. § 112:

The Office Action rejects Claims 19-27 as being indefinite. In particular the Examiner was unclear of relationship of the service level management domain in the preamble with the rest of the claim. The Applicant respectfully traverses this rejection on the basis of the above amendments and the following arguments.

Claims 21-26 depend, directly or indirectly on amended Claim 19, and thereby incorporate the patentable features of amended Claim 19.

Claim 19 has been amended to clarify and better cover the subject matter of the present invention. The amendment is supported by the specification and no new matter has been added.

Claim 19 was amended to remove confusing language regarding the business process and services. Amended Claim 19 now also includes a step for measuring service parameters that more clearly sets forth the management aspects of the claim. As such Applicant believes there should be no more confusion as to what is being claimed in Claim 19. Accordingly,

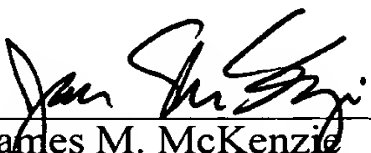
Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of Claims 19 -27 under 35 U.S.C. § 112.

**CONCLUSION**

In view of the remarks set forth above, Applicants contend that Claims 1-6, 9-13, 19, and 21-27 presently pending in this application, are patentable, and in condition for allowance. If the Examiner deems there are any remaining issues, we invite the Examiner to call the undersigned at (617) 227-7400.

Respectfully submitted,

LAHIVE & COCKFIELD, LLP

  
\_\_\_\_\_  
James M. McKenzie  
Attorney for Applicant  
Reg. No. 51,146

28 State Street  
Boston, MA 02109  
Tel. (617) 227-7400

Date: January 24, 2005